App. F. IX-4

1950-57
(CB)

File No. 163-50

Serial Nos. 1, 2, 3

Previous References.

CB

Later References.

CB168-50-1,2. (6-7 or 50-51)
Chs. Mis 71-57-1.
CC. 6 qs 3 (QE 103-53-1)

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 3 only.

Part B for Aug 1 of 50.

SUBJECT

Salaries and Allowances of High court Judges —

No 7031-33/CB163-50-3. D. 1.8.50

To

The Private Secretary
to H.H. Mysore —

The Registrar, High court of Mysore
Bangalore

The Accountant General

18th 29/11/50.

High Court Judges.

General and Revenue Secretariat

File No. 3492/CB of 195

[App. F. III-2

WD 07558—GPB—1,000—28-1-50

Serial No.	
	Submitted 5) Draft letter put up for approval. 6) Reject. para 4. Chief Secy) 9.2.50. 7) Done 9.2.50 8) 10/2 10/2 Done 10/2/50. Issued letter No. 10598/CB Dt 11.2.1950 to the Secretary to Govt of India, Ministry of States. Dt 10-2-50 DO No 1/a Applts from the Chief Secretary to the Govt of Bombay forwarding certain copies of orders in the matter of appointment of High Court judges DO No 11182/CB/187 to the Chief Secy to Govt of Bombay acknowledging the letter dt 10-2-50 of the Bombay Govt. Letter No 617/50-1 dt 9-3-50 from Chief Secretary to Govt of Madras forwarding a petition submitted No 12207/CB dt 17-3-1950 to the Chief Secretary. Govt of Madras.

CHIEF SECRETARY 7728 GOVT. OF MYSORE

Note.—Contn. Sheet.

Secret/Immediate. Secret 4412
Regd. A.D. CS

No.11/22-A/49-Apptt.(Sp)/Judl.
Government of India,
Ministry of Home Affairs.

From

E.C. Gaynor, Esquire,
Deputy Secretary to the Government of India,

To

(1) All Chief Ministers in Part A and B States (except Jammu & Kashmir). (By name).

*(2) All Chief Secretaries in Part A & B States (except Jammu and Kashmir). (By name.)

(3) All Governors' Secretaries.

(4) All Rajpramukhs' Secretaries (except Jammu and Kashmir).

* With one spare copy.

New Delhi, the 15th March, 1950.

Sir,

I am directed to enclose, for information a copy of a Memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A and B States. I am to request that the new procedure may be brought confidentially to the notice of those concerned.

Yours faithfully,

(E.C. Gaynor)
Deputy Secretary to the Government of India.

106. CS

OFFICE OF THE CHIEF MINISTER 7564. 17 MAR 1950 OF MYSORE

9) Secret. One copy with name has been rec'd. direct by the Chief Minister. The spare copy rec'd. will be sent to the C.J. by name, if applied.

A.

142

CHIEF SECRETARY 17 MAR 1950 GOVT. OF MYSORE

Chief Minister) 17/3

10) A. may be done.

Rec'd. 17/3/50

Serial No.

11) Dft D.O. letter to Chief Justice is submd

CKS
22/3/50

12) After issue of the letter, the Ministry of Home Affairs may be addressed, if approved, asking for another copy of the Memorandum for refce. in the C.B.

13) May be approved
sd/-
22.3.50.

14) Yes
HS
28/3.
sd/-
24/3/50

(Chief Secy)
sd/-
23/3/50.

15) Sometd. We recd two Copies. What happened to the other one?

HS
28/3/50.
sd/-
29/3/50.

D.O letter No 12580/CB dt 24-3-1950 to Sri Rao Bahadur P. Medappa - Chief Justice High Court Mysore

16) Ref. paras 14 and 15. The other copy received has been kept in a compilation file of the P.C.H. Chief Secy for his ready reference. Another copy will be obtained for the file

Dft is submd

CKS
30/3/50

17) Issue
sd/-
31/3/50

No 41/CB dt 1-4-50 to the Secretary to Govt of India Ministry of Home Affairs

Sd/-
30.3.50

NOTE—Contd. Sheet

(26) High Court Judges. 44/2/50-Poll/GR 378

File No. of 195 . General and Revenue Secretariat

Serial No.

From Sri Dehejia, Secy to Govt. of Bombay Home Deptt. Do-letter No. 4773/6-A Dj/17/4/50 States that the President has to announce rules & procedure re the High Court judges etc.

18) Orders of the Chief Secy. on the P.H.P. "Write Thanking"

Sd/- K.S. 18/4.

Sd/- K.M.R. 19/4.

19) Draft Do-letter is put up for approval 'A'

MMR 21/4. 20) Please put up fair copy

Secy 21/4/50

Sri 21.4.50.

Fair copy is placed below

MMR 25/4:

Issued No. 1250/GR. Dj 25/4/50 Sri.
to the Secy to Govt. of Bombay, Home Deptt., Bombay. Thanks acknowledged with thanks his letter Dj. 17/4/50.

From the Govt of Patna, Min of States letter No. J. 49(8)-P/50 dt 19/4/50 states that letters on this matter may be addressed in future to the Ministry of States and not the Min for Home affairs.

From Secy to Govt of Bombay Home Deptt. Memorandum re: procedure

P.T.O.

Serial No.

to be adopted in connection with the appointment of and transfer of Judges of High Courts in Part B States.

No. 1289 / CB. dt. 28/4/50. from Regr. Sey to Govt. of India. Asks the above to receive of the above letter.

No. D. 3721 - P/50 dt. 3/5/50 from Min. of Law, Govt. of India. Asks that Judges of H.C. are not subject to the first seven Cadre rules.

---

21) Vide notes at (P.U.) above letter. Issued No. 2090 / CB. dt. 15/5/50. to P.S. to H.E. the Governor. Encls. a copy of the above letter. Issued No. 2089 / CB. 15/5/50 to the Regr. H.C. Encl. an extract of the above let.

---

from the Govt. of India. Min. of Law. Letter No. 11/8/50 Judl. dt. 4/5/50. re grant of honorarium to the Judges.

22) Draft letter is put up. Vide orders at P.U.

23) Issue

17/5

17.5.50.

17.5.50

O. T. J.

(46)

File No. 1009/CB

High Courts Judges. 404 617 689 478 1024 1089

General and Revenue Secretariat

CB.

Serial No.

Issued Letter No. 3190-91/GB-A/48/5/50 dtd

To the P.S. to H.H. & the Repr. H.E. Orissa. Fds. copy of Govt. letter of 6th inst. 1950.

From the P.S. to H.H.

No. P.H. 24/50-51 of 22nd May 50.

returning the copy of memorandum sent on 18/5/50 after perusal of H.H. the Maharaja.

From the Govt of India

Ministry of States. Letter No. F. 19(13)-P/50 of 23rd May 50. Fds. a copy of order by the President regarding the fixation of the tenure of High Courts judges of part B. States.

24) Order of the chief Secretary on the letter

1) Copy to H.E.,

2) To be put up to CM. for perusal.

---

25) Draft of letters forwarding copy to H.C. and Accountant-General P.S. to H.H. put up for approval or other orders

dtd 26/5/50.

26) Issue sent up RemR 27.5.50

Office of the Chief Minister
No. 1940
Date of Receipt 29/5/50

Issued No. 3700-702 of 29/5/50

26.5.50.

To the Repr. H.E. Orissa

The Private Sec to H.H.

The Advt. Genl. Bangalore

27) Remitted after issue.

28) For perusal

Chief Min) RemR 29.5.50

29/5.

29.5.50.

29) RDD 29/5/50

30th RemR 30/5/50

(46)

High Court Judges.

General and Revenue Secretariat | File No. 1009/CB 2238 of 19 . | [App. F. III-2

WD 06071—GPB—25,000—20-6-49

Serial No.

Law Department
2236
31 MAY 1950
Govt. of Mysore

30) Secretariat.

Min Law
Hon Law Secy
W/C.
31)

30/5
30/5/50

31/5/50

2/6/50

32) R.T.P.

2/6

3/6
3/6/50.

General & Revenue Secretariat
2 JUN 1950
Confidential Branch.

Office of the Minister for Law & Labour.

No. 1561
Date 2-6-50

Chief Secretary
31 MAY 1950
Govt. of

From the Joint Sec. to Govt. at Ootacamund No. 7. 19 (6)-P. /50 dt 27/7/50. forwards a copy of order re. salaries & allowances to High Court Judges.

Submit with draft for approval - vide Ch. Sec's order on the P.U.D.

Issue + put up
Secy
1/8/50.

31.7.50.

Ch. Secy's order -

May be kept by for a couple of days.

3.8.50.

Sec Secy's order -

May issue -

17.8.50

Contd. 29/11/50

E—Contn. Sheet

7/2/50

10211-10212/CB

Dear Sir,

With reference to the provisions in the Constitution of India regarding Judges of the High Court in the States in Part A and Part B of the First Schedule, I am desired to request you kindly to let me know what procedure is followed by the Government of Madras/Bombay in regard to the selection and appointment of the Chief Judge & other Judges of the High Court and whether there are any rules or conventions in this behalf according to which proposals are formulated by the Provincial Government either by themselves or in consultation with the High Court and forwarded to the Central Government. Copies of rules or instructions, if any, on the subject may kindly be made available, if there is no objection.

I am also to request you kindly to let me know the channel of correspondence with the High Court, that is to say, whether the Chief Minister writes to the Chief Justice or the Chief Secretary to Government to the Chief Justice or the Registrar of the High Court and whether such proposals are considered informally or otherwise by the Cabinet and whether the Governor is consulted.

It will be greatly appreciated if any other information ~~leaving~~ bearing on matters concerning the affairs of the High Court, more particularly those relating to questions of conduct, discipline, control, etc., of Judges could be made available. It may kindly be stated whether Judges of the High Court are considered to be subject to the rules for the conduct of Government servants or whether there are any special rules applicable to them.

The Government of Mysore are at present considering in what way the existing rules in regard to these matters should be revised in order to bring them into line with the provisions of the new Constitution and

those particulars. Does the Chief Minister Consult the High Ct. and advise the Gov. in regard to apptmt. of Puisne Judges, preliminary to the Gov. being consulted by the Centre, — (now by the President); in regard to the apptmt. of the C.J. very probably no Consultn with the H.C. is possible & the C.M. directly advises the Gov. Are these apptmts. first Gazd. in the G.O.I. Gaz. & then republished as the local Gazette? Are any G.O.s issued for infmn. of the Audit & Accts. Deptts?

Submitted

1) Draft letter put up, as instructed, for approval.

2) It is for Consideration whether the Govt. of India in the Ministry of States may also be addressed on similar lines.

Sd/ 7.2.50. (Chief Secy)

3) Sd/ 7.2.50

4 Done. A may also be done.

Sd/ 7/2/50

Sd/ 7.2.50

P. T. O.

SrCKR 3566 CB

SECRET

D.O. No.1/2 Appts,
Political and Services Department,
Bombay Castle,(Bombay No.1) 16th February 1950.

My dear Srinivasan,

Please refer to your demi-official letter No.10211-10212/ C.B. dated the 7th February 1950 inquiring about the procedure being followed by this Government in regard to selection and appointment of Judges of the High Court. I enclose herewith copies of instructions, etc as detailed in the appended statement which give you the required information.

As regards information required by you on matters concerning the affairs of the High Court, more particularly, those relating to questions of conduct, discipline, control, etc, of judges, I am asking Dehejia, Secretary to Government, Home Department to supply you the information required in the matter.

Yours Sincerely

(M.D. Bhat)

K. Srinivasan, Esquire B. Sc.
Chief Secretary to the Government of Mysore,
Bangalore.

STATEMENT

(A)----- Short Note showing salient points to be carefully noted in respect of the procedure laid down by the Government of India in connection with High Court Judges appointments.

Letters quoted at serial Nos.(2) (3) (4) (5) and (6) are not necessary since a summary is given in the short note.

(B)---- A copy of the Revised Memorandum from the Government of India, Ministry of Home Affairs, laying down the procedure to be observed in future in filling vacancies in post of judges of High Courts.

(C)---- A copy of Government letter regarding transfer of Judges from one High Court to another within the territory of India.

(D)----- A Note dated the 4th January 1950 recorded in this Department mentioning relevant Articles in the Constitution of India relating to High Courts in the States and Subordinate Courts.

(E)---- A copy of Government of India Notification as republished in the Bombay Government Gazette and copies endorsed to all concern.

Short Note showing salient points to be carefully noted in respect of the procedure laid down by the Government of India in connection with High Court Judges appointments.

A

(1) Whenever our recommendations are being prepared for ~~the~~ transmission to the Government of India, the revised Memorandum received from the Ministry of Home Affairs in its letter No.F.11/3/47-RR(GG/B) dated the 4th November 1947 should always be seen. This Memorandum gives all relevant details of the procedure to be followed regarding:-

(a) Permanent appointments of Chief Justice and Judges.

(b) Officiating appointments of Chief Justice and Judges.

(c) Appointments of Additional Judges.

(d) Notification of assumption of office, etc.

(e) Appendix:- An undertaking that he will after retirement refrain from practising in the High Court or in any of the Subordinate Courts, to be obtained.

(f) A certificate of perfect physical fitness signed by a Civil Surgeon or District Medical Officer to be obtained (vide paragraph 2 of the Memorandum).

(2) Government of India's letter dated the 31st December 1947/ 8th January 1948.

(a) Although members of the I.C.S. or P.S.C. will continue to be appointed to the High Court, it is no longer the intention that any proportion should be maintained for any particular class of persons eligible for appointment.

(b) Recruitment of District Judges, whether of the I.C.S., P.C.S., or from the Bar will accordingly be on merits.

(c) In order to enable the Government of India to convince themselves that no injustice is done to the claims of individuals, e.g. in the event of a junior officer being recommended for appointment in preference to his seniors, clear and precise details should be furnished explaining why it is proposed that the senior officer or officers should be passed over. Full particulars as regards age, qualifications and service should be given in respect of each individual (accompanied, where available, by their confidential records).

(d) As regards short-term vacancies, the appointment of members of the local Bar as temporary or additional Judges is deprecated, although not absolutely rules out. It may be desirable to try out a member of the Bar, who is prima facie suitable, in a short vacancy, with a view to his retention on the Bench in a permanent capacity.

(3).....

(3) Government of India's letter dated the 26th May 1948.

(a) The practice of sending copies of correspondence with the Chief Justice along with the Premier's recommendations may be followed as a general rule, particularly in cases where there is difference of opinion.

(b) The fact that the Chief Justice, the H.M. in charge of Law and the H.M. in charge of Justice (Home Minister) and the Governor have been consulted should be clearly mentioned at the time the recommendations are made.

(c) Proposals for filling High Court vacancies should be sent well in advance of the date on which the vacancy falls due, so as to allow reasonable time at the Centre for consulting all the authorities, before the Governor-General's final decision can issued

(4) Government of India's letter dated the 19th June 1948.

(a) Consultation with the Chief Justice should, as a rule, be written and not verbal; in the case of verbal consultation a Memorandum incorporating the result of the discussion should be prepared and forwarded along with the recommendation.

(b) An undertaking that they will refrain from practicing after retirement should be obtained not only from Advocates or Members of the Bar but from all persons recommedned for a permanent appointment to the High Court Bench.

(5) Government of India's letter dated the 1st November 1948.

The Government of India have reiterated their request made earlier in their letter of the 26th May 1948 viz. that proposals for filling High Court vacancies should be sent well in advance of the date on which the vacancy falls due.

(6) Government of India's letter dated the 10th December 1948.

(a) Sardar Patel has pointed out that recommendations for appointments of High Court Judges are not always made in accordance with the instructions issued by the Government of India from time to time.

(b) In paragraph 2 of Government of India's letter dated the 4th November 1947, it was laid down that such correspondence should be forwarded by the premier of the Province to the Minister for Home Affairs in the Central Government and that the correspondence should be demi-official, unless on any point a private and personal communication was desired. This instruction should be strictly adhered to.

(c) The fact that the concurrence of the Governor has been obtained should be clearly mentioned.

(d) Full names (not merely the initials) of persons recommended should be given and also their dates of birth.

(e) The preliminary correspondence in the Province should be between the Premier and the Chief Justice and not in any case between the Chief Secretary (or any other Secretary) and the Chief Justice (or Registrar).

SECRET.

No.F.11/3/47-Ests(CG/B).
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS.

B

From

The Honourable Mr. R.N. Banerjee, CSI., CIE., ICS.,
Secretary to the Government of India.

To

(1) All Prime Ministers

(2) All Chief Secretaries to Provincial Governments.

(3) All Governors' Secretaries.

New Delhi, the 4th November, 1947.

Sir,

I am directed to enclose for information and guidance, a copy of a revised Memorandum laying down the procedure to be observed in future in filling vacancies in posts of Judges of High Courts. I am to request that the New procedure may be brought confidentially to the notice of those concerned.

I have the Honour to be,
Sir,
Your most obedient servant,

Sd/- R.N. Banerjee.
Secretary to the Government of India.

CONFIDENTIAL.

Memorandum showing the procedure to be adopted in connection with the appointment of permanent, officiating and additional Judges of Courts which are deemed to be High Courts within the meaning of Section 2?? of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947. 219

Permanent Appointments.

1. Permanent Chief Justices and Judges are to be appointed by the Governor-General under section (2) of section 220 of the Government of India Act, 1935, as adapted.

As soon as a permanent vacancy is expected to arise, the Chief Justice will communicate to the Prime Minister of the Province his views as to the person to be selected for permanent appointment. The Prime Minister will, in consultation with the Minister in charge of Law and Justice and the Governor, forward his recommendation to the Minister of Home Affairs in the Central Government. The Minister of Home Affairs, in consultation with the Chief Justice of India and the Prime Minister, will then advise the Governor-General as to the selection.

2. Before the appointment of the person selected is announced the Prime Minister of the Province will obtain from him a certificate of perfect physical fitness signed by a Civil Surgeon or District Medical Officer, and also inform the person that in the event of the appointment definitely being offered to him he will be required to give an undertaking (in the form annexed) to refrain from practising after retirement in the High Court to which he is appointed or may be transferred or in any Court subordinate thereto. As soon as the certificate and undertaking have been obtained, the Prime Minister of the Province will intimate the fact to the Ministry of Home Affairs in the Centre. The Secretary to the Ministry of Home Affairs will then announce the appointment and issue the necessary notification in the Gazette of India.

The correspondence between the Prime Minister of the Province and the Minister of Home Affairs shall be demi-official unless on any point a private and personal communication is desired.

Officiating Appointments.

3. Appointments of acting Chief Justice and Judges are to be

made by the Governor-General under sub-section (1) and (2) of section 222 of the Government of India Act, 1935, as adapted. Vacancies in Judge's posts will not, except for special reasons, be filled when they are expected to last for less than three months; but vacancies in Chief Justices' posts must be filled whatever the period of vacancy may be. If it is proposed to fill a vacancy for less than three months, sufficient reasons for such a course should be given. In all cases, the Prime Minister of the Province, after consulting the Chief Justice and the Minister for Law and Justice and the Governor, will forward to the Minister of Home Affairs full particulars relating to the vacancy, together with his recommendation as to the person to be appointed. In making his recommendation the Prime Minister will bear in mind that no person will ordinarily be appointed by the Governor-General who will have exceeded the age of 60 years before the termination of his acting appointment. The Minister of Home Affairs will consult the Chief Justice of India and the Prime Minister at the Centre before advising the Governor-General as to the person selected for appointment. The Minister of Home Affairs will then inform the Prime Minister of the Province of the orders of the Governor-General and the Secretary to the Ministry of Home Affairs will announce the appointment when made and issue the necessary notification in the Gazette of India.

Appointment of Additional Judges.

4. Under sub-section (3) of section 222 of the Government of India Act, 1935, as adapted, the Governor-General may appoint a person to be an additional judge for a period not exceeding two years. The Governor-General has first to be satisfied that the number of judges should be temporarily increased by reason of temporary increase in business or by reason or arrears of work in the Court. The Provincial Government should therefore obtain from the High Court relevant statistics in support of the recommendation for an additional judge and obtain the sanction of the Central Government in the Ministry of Home Affairs to the creation of the additional post. Thereafter, the Prime Minister of the Province, in consultation with the Chief Justice and the Minister for Law

and Justice and the Governor, will forward to the Minister of Home Affairs his recommendation as to the person to be appointed. In making his recommendation the Prime Minister will bear in mind that the Governor-General will not ordinarily appoint any person who will have exceeded the age of 60 years before the termination of his appointment. The Minister of Home Affairs will consult the Chief Justice of India and the Prime Minister at the Centre before advising the Governor-General as to the person selected for appointment. The Minister of Home Affairs will then inform the Prime Minister of the Province of the orders of the Governor-General and the Secretary to the Ministry of Home Affairs will announce and notify the appointment.

If it is proposed to extend the period of the appointment of an additional judge beyond the term for which he was originally appointed, even though the same individual is to be retained, the Prime Minister of the Province (after a decision has been made by the Central Government on to the extension of the term) will again approach the Minister of Home Affairs in the aforesaid manner and the Secretary to the Ministry of Home Affairs will announce and notify the appointment.

5. The appointment of members of the local Bar in short vacancies as temporary or additional judges is for obvious reasons depre[illegible]d, although not absolutely ruled out;

Notification of assumption of office etc.

6. The notification of assumption of office by all judges will be made by the Provincial Government in the official gazette.

It will also be the duty of Provincial Governments to communicate the copies of orders passed by the Governor-General to the High Courts, individual judges concerned, and to Accounts Officers.

APPENDIX.

Sir,

With reference to the proposal to appoint me as the Chief Justice / a Judge of the High Court at ...../ the Chief Judge/ a Judge of the Chief Court of Oudh, I beg to state

for official record that I undertake, as a condition of appointment, that I will not, after retirement, practise in the High Court/Chief Court to which I am appointed or to which I may be transferred, or in any of the Courts subordinate thereto.

I am etc.

The Secretary to the Government of .....

CONFIDENTIAL

No.5191/5-A,
Home Department,
Bombay Castle, 14th December 1949.

From

V.T. Dehejia, Esquire, I.C.S.
Secretary to the Government of Bombay,
Home Department.

To

The Secretary to the Government of India,
Ministry of Home Affairs, New Delhi.

Sir,

I am directed to forward herewith a copy of a demi-official letter dated the 10th November 1949, from the Honourable Mr. M.C. Chagla, Chief Justice, High Court, Bombay, addressed to the Honourable the Premier of Bombay, containing the views of the Judges of the Bombay High Court on Article 222 of the Draft Constitution of India. You will observe that the Chief Justice and his colleagues are of the view that the present incumbents of the posts of judges should not be liable to transfer to another High Court within the territory of India and desire that their rights to serve in the Court to which they were appointed should be safeguarded. The Government of Bombay does not agree with the views of the Bombay High Court and considers that the powers embodied in Art. 222 of the Draft Constitution are necessary for the President, who can be trusted, while exercising those powers, not to be actuated by sinister motives. In actual practice, however, the Government of Bombay presumes that transfers of High Court Judges from one Province to another are likely to be very rare and it has no doubt that, before such transfers are made, the Chief Justices of the Provincial High Courts concerned will ordinarly be consulted, as a matter of convention, though their concurrence will not be essential for the purpose of giving effect to the proposed transfers.

Yours faithfully,

V.T. Dehejia.

Secretary to the Governor of Bombay,
Home Department.

D

A note dated 4th January 1950, recorded in the Political and Services Department.

Please see the attached list of the High Court Judges. The G. of I. have recently made it clear that the date of appointment is taken to be date of confirmation as a judge. The dates shown in type are dates of confirmation, while those shown in pencil are the dates of appointment as acting judge or addl judge(temporary).For example Mr. Justice Coyajee entered office as an acting Judge on 1-3-1943, but he was confirmed as a Judg on 22-7-43. The term puisne Judge, 22-7-1943 signifies that he was confirmed as a Puisne Judge on 22-7-43(and so he was not acting or addl.Judge from that date).

The following Articles in the new Constitution of India relate to the High Courts in the States and Subordinate Courts:-

(a) Articles 214 to 237.

(b) Articles 375-376.

Please see article 376(3). In this Article, the expression "Judge" does not include an acting judge or an additional judge. On the 26th January 1949, all judges of the High Court at Bombay will be all permanent judges, and the old term "puisne judge" will not be used hereafter. The A.G. Bombay will be asked to make the necessary corrections in the next issue of the Bombay Civil List (Ref.to p.23 of the Civil List).

It has already been observed that there will not be any acting or addl.Judges under the New Constitution. But Article 224 refers to attendance of retired judges at sittings of High Court. Articles 224 reads:-

Notwithstanding anything in this Chapter, the Chief Justice of a High Court for any State may at any time, with the previous consent of the

President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court for that State, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as the President may by order determine and have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that High Court:"

It is clear from the above that the services of only a judge(permanent) who has retired could be utilised by the High Court to sit and act as a judge of the High Court and' he will have all the jurisdiction, powers and privileges but shall not otherwise be deemed to be a judge of that High Court. The Govt. of India's intention is that the acting appt. of a member of the Bar as a Judge of the High Court for some time who will then continue practice at the Bar again should be deprecated. This intention is in conformity with the direction in article 220, which states that no person who has held office as a judge of a High Court after the Commencement of the Constitution shall plead or act in any court or before any authority within the territory of India.

Attention is invited to Articles 233 which relates to appointment of District Judges. Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in Consultation with the High Court. The expression"district Judge" includes inter alia(Vide Article 236)

Judge of a City Civil Court
Additional district Judge
Joint district Judge
Asst.Sessions Judge, Addl.Sessions Judge,
Chief Judge of a Small Cause Court
Chief Presidency Magistrate.

These above appointments do not come within

the purview of the State Public Service. Commission and will be continued to be made as hitherto by the Governor of the State in Consultation with the High Court. A person not already in the service of the State shall only be eligible to be appointed a district judge, if he has been for not less than seven years an advocate or a pleader etc. (It was five years under the G. of I? Act, 1935).

Article 234 refers to appts. of persons otherx than district judges to the judicial service of a State which shall be made by the Governor in accordance with rules made by him after consultation with the P.S.C. and with the High Court. So in future appts. of presidency Magistrates and judges of small causes Court being done in P.&.S.D. will come under the purview of the P.S.C.

No.8/2 Appts,
Political and Services Department,
Bombay Castle, 18th January 1950.

E

NOTIFICATION:

The following notification by the Government of India, Ministry of Home Affairs, is, hereby republished:-

No.12/3/40-Apptt.(SP.) Judl.(i). New Delhi, 16th January 1950.

In exercise of the powers conferred by section 220 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947, the Governor-General is pleased to appoint the Hon'ble Mr. Justice Eric Weston, I.C.S. Puisne Judge of the Bombay High Court, to be the Chief Justice of the East Punjab High Court vice the Hon'ble Mr. Justice S.R. Das, appointed as Puisne Judge of the Federal Court.

Sd/- E.C. Gaynor,
Deputy Secretary to the Government of India

By order of the Governor of Bombay,

M.D. Bhat
Chief Secretary to Government

No.8/2 Appts,
Political and Services Department,
Bombay Castle, 18th January 1950.

Copy forwarded for information to:-

The Hon'ble Mr. Justice E. Weston,
The Prothonotary and Senior Master, High Court,
The Private Secretary to the Governor,
The Accountant General, Bombay,
The Secretary to the Hon'ble the Premier,
The Home Department.

By order of the Governor of Bombay,

For Chief Secretary to the Government of Bombay, Political and Services Department.

111 82/CS

18th February 1950.

I am desired to acknowledge with many thanks the receipt of your D.O. letter No.1/2 Appts, dated 10th February 1950, regarding the procedure being followed by Bombay Government in regard to selection and appointment of Judges of the High Court.

Y.S. 16/2

Sri M.D. Bhatt I.C.S.,
Chief Secretary to the Govt. of Bombay,
Political & Services Department,
Bombay Castle, BOMBAY.

CKP

10211-10212/CB

Dear Sir,

7th February 1950.

With reference to the provisions in the Constitution of India regarding Judges of the High Court in the States in Part A and Part B of the First Schedule, I am desired to request you kindly to let me know what procedure is followed by the Government of Bombay / Madras in regard to the selection and appointment of the Chief Judge and other Judges of the High Court and whether there are any rules or conventions in this behalf according to which proposals are formulated by the Provincial Government either by themselves or in consultation with the High Court and forwarded to the Central Government. Copies of rules or instructions, if any, on the subject, may kindly be made available, if there is no objection.

More particularly, does the Chief Minister consult the High Court and advise the Government in regard to appointment of Puisne Judges, preliminary to the Government being consulted by the Centre (now by the President); in regard to the appointment of the Chief Judge, very probably no consultation with the High Court is possible and the Chief Minister directly advises the Government. Are these appointments first gazetted in the Government of India Gazette and then republished in the local Gazette? Are any Government Orders issued for information of the Audit and Accounts Departments?

I am also to request you kindly to let me know the channel of correspondence with the High Court, that is to say, whether the Chief Minister writes to the Chief Justice or the Chief Secretary to Government to the Chief Justice or the Registrar of the High Court and whether such proposals are considered informally or otherwise by the Cabinet and whether the Governor is consulted.

It will be greatly appreciated if any other information bearing on matters concerning the affairs of the High Court, more

particularly, those relating to questions of conduct, discipline, control, etc, of Judges could be made available. It may kindly be stated whether Judges of the High Court are considered to be subject to the rules for the conduct of Government servants or whether there are any special rules applicable to them.

The Government of Mysore are at present considering in what way the existing rules in regard to these matters should be revised in order to bring them into line with the provisions of the new Constitution and feel that they cannot do better than ask their experienced neighbours for advice in the first instance. Hence this request.

As the matter is one of some urgency, it would be greatly appreciated if a reply could be sent as early as may be convenient.

I need hardly say that such information as the Government of Bombay / Madras may kindly furnish will of course be treated as strictly confidential.

Yours Sincerely

7/2

1) Sri M.D. Bhat, I.C.S.,
Chief Secretary to the Govt. of Bombay,
Political & Services Department,
Bombay Castle, BOMBAY.

2) Sri K. Ramunni Menon, I.C.S.,
Chief Secretary to the Govt. of Madras,
Public (Services) Department,
Fort St. George, MADRAS. 9.

KNB

Confidential

10598/CD 11/2/50

To

The Secretary to the Govt. of India,
Ministry of States, NEW DELHI.

Sir,

With reference to the provisions in the Constitution of India regarding Judges of the High Court in the States in Part B of the First Schedule, I am directed to request you kindly to let me know what procedure is to be followed regarding the selection and appointment of the Chief ~~Judge~~ Justice and other Judges of the High Court of Mysore and whether there are any rules or conventions in this behalf according to which proposals are formulated by the State Government either by themselves or in consultation with the High Court and forwarded to the Central Government. Copies of rules or instructions, if any, on the subject, may kindly be made available, if there is no objection.

I am also to request you kindly to let me know whether these appointments are first gazetted in the Government of India Gazette and then republished in the Local Gazette and what procedure is adopted for communicating the orders to the Audit and Accounts Departments.

It will be greatly appreciated if any other information bearing on matters concerning the affairs of the High Court, more particularly, those relating to questions of conduct, discipline, ~~control~~, etc, Similar to Public Service Conduct Rules, ~~of Judges, if any,~~ could be made available. It may kindly be stated whether Judges of the High Court are

~~considered to be under~~ outside the control of the ~~local Government in regard to the latter matters and whether they~~ all or any of these also are subject to the rules for the conduct of Government servants or whether there are any special rules applicable to them.

As the matter is one of some urgency, it will be greatly appreciated, if a reply could be sent as early as may be convenient.

I need hardly say that such information as the Government of India may kindly furnish will of course be treated as strictly confidential.

Yours faithfully,

Chief Secretary to Govt.

9.2.50

Sticker. 3780 Cb

GOVERNMENT OF INDIA

MINISTRY OF STATES

No. F.245-P/49 Dated New Delhi, the 23rd February 1950.

From

The Deputy Secretary to the Government of India.

To

The Chief Secretary to the Government of Mysore, Bangalore.

Sir,

Subject:- Procedural matters in regard to the appointment of High Court Judges, and the rules governing their conduct, discipline etc.

Reference:- Your letter No. 10598/C.B., dated February 11, 1950.

I am directed to refer to your letter quoted above and to say that the question of issuing suitable instructions on the subject to all Part B States is under consideration and a further communication will follow as soon as possible.

Yours faithfully,

Deputy Secretary
to the Government of India.

CHIEF SECRETARY
24 FEB 1950
GOVT. OF MYSORE

ANAND/-

Sec'R 4196 CB

No. 617/50-1
Government of Madras.
Public (Special) Department.

Confidential.

D.O.No. 617 Fort.St.George, dated 9th March 50.

Dear Srinivasan,

Ref:- Your D.O.No. 10211-10212/CB, dated 7-2-50 regarding appointment of Judges of High Court.

--

With reference to paras 1 and 2 of the D.O. cited, I am to enclose extracts from the Memorandum of the Government of India regarding the procedure adopted in connection with the appointment of Judges of High Courts. The Honorable the Chief Minister will write to the retiring Chief Justice for his views on the appointment of a successor.

2. Appointment of Judges of the High Court is not considered by the Cabinet but the Honorable the Chief Minister consults the Governor. The Honorable Chief Minister writes to the Chief Justice direct regarding the appointment of Judges of the High Court. Notifications regarding appointments of Chief Justice and Judges are first published in the Gazette of India and then republished in the Fort St. George Gazette. A copy of the G.O. in which the notification is republished and a copy of the G.O. notifying the date of assumption of charge are communicated to the Accountant-General.

Yours sincerely,

14/3 14/3/50

To
Sri. K.Srinivasan, B.Sc.,
Chief Secretary to the Govt. of Mysore,
Bangalore (with enclosure).

Enclosure.

--

Confidential. **Extracts from** the Memorandum of the Government of India, paras 1 to 3 and 6.

Memorandum showing the procedure to be adopted in connection with the appointment of permanent, officiating and additional Judges of Courts which are deemed to be High Courts within the meaning of Sec. 219 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order. 1947.

Permanent Appointments.

Permanent Chief Justices and Judges are to be appointed by the Governor-General under section (2) of section 220 of the Government of India Act, 1935, as adapted.

As soon as a permanent vacancy is expected to arise, the Chief Justice will communicate to the Prime Minister of the Province his views as to the person to be selected for permanent appointment. The Prime Minister will, in consultation with the Minister in charge of Law and Justice and the Governor, forward his recommendation to the Minister of Home Affairs in the Central Government. The Minister of Home Affairs, in consultation with the Chief Justice of India and the Prime Minister, will then advise the Governor-General as to the selection.

2. Before the appointment of the person selected is announced the Prime Minister of the Province will obtain from him a certificate of perfect physical fitness signed by a Civil Surgeon or District Medical Officer, and also inform the person that in the event of the appointment definitely being offered to him he will be required to give an undertaking (in the form annexed) to refrain from practising after retirement in the High Court to which he is appointed or may be transferred or in any Court subordinate thereto. As soon as the certificate and undertaking have been obtained, the Prime Minister of the Province will intimate the fact to the Minister of Home Affairs in the Centre. The Secretary to the Ministry of Home Affairs will then announce the appointment and issue the necessary notification in the Gazette of India.

The correspondence between the Prime Minister of the Province and the Minister of Home Affairs shall be demi-official unless on any point a private and personal communication is desired.

Officiating Appointments.

3. Appointments of acting Chief Justices and Judges are to be made by the Governor-General under sub-sections (1) and (2) of section 222 of the Government of India Act, 1935, as adapted. Vacancies in Judges' posts will not, except for special reasons, be filled when they are expected to last for less than three months; but vacancies in Chief Justices' posts must be filled whatever the period of vacancy may be. If it is proposed to fill a vacancy for less than three months, sufficient reasons for such a course should be given. In all cases, the Prime Minister of the Province, after consulting the Chief Justice and the Minister for law and Justice

and the Governor, will forward to the Minister of Home Affairs full particulars relating to the vacancy, together with his recommendation as to the person to be appointed. In making his recommendation the Prime Minister will bear in mind that no person will ordinarily be appointed by the Governor-General who will have exceeded the age of 60 years before the termination of his acting appointment. The Minister of Home Affairs will consult the Chief Justice of India and the Prime Minister at the Centre before advising the Governor-General as to the person selected for appointment. The Minister of Home Affaris will then inform the Prime Minister of the Province of the orders of the Governor-General and the Secretary to the Ministry of Home Affairs will announce the appointment when made and issue the necessary notification in the Gazette of India.

Notification of assumption of office, etc.

6. The notification of assumption of office by all judges will be made by the Provincial Government in the official gazette.

It will also be the duty of Provincial Governments to communicate the copies of orders passed by the Governor-General to the High Courts, individual judges concerned, and to Accounts offices.

17th March 1950.

12207/CP

I am desired to acknowledge, with many thanks, the receipt of your D.O. No.617/50-1 dated 9th March 1950, regarding the procedure adopted in connection with the appointment of Judges of High

Sri K. Ramunni Menon, I.C.S.,
Chief Secretary to the Govt. of Madras,
Public (Services) Department,
Fort St. George,
MADRAS. 9.

CKP

D.O.No. 12580/CR

24th March 1950.

SECRET & IMMEDIATE.

Dear Sir,

SUBJECT:- Procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A & B States.

I am desired to forward herewith a copy of letter No.11/22-A/49-Appt(Sp)/Judl., from the Ministry of Home Affairs, Government of India and its enclosure in original.

The receipt of this letter may kindly be acknowledged.

Yours sincerely,

RAO BAHADUR P. Medapa, B.A., B.L.
Chief Justice,
High Court of Mysore,
Bangalore.

CKO

Appendix F. G.—1]

SUBJECT Procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A + B States

Section

File No.

Secret / Immediate Serial No.

Diary No. of letter replied to

No.

To

General and Revenue Secretariat

( )

the 19 .

(Dear Sir—)

Date of issue

I am directed to forward herewith a copy of letter No. 11/22-A/49-Apptt (SP)/Judl. dated 15-3-50 from the Ministry of Home Affairs, Govt of India and its enclosure in original, for your reference. The receipt of this letter may kindly be acknowledged.

Signed by

Yours sincerely

28/3/50.

23/3/50

To

Chief Secy to Govt

Chief Justice (by name)

List of enclosures

Copied by

Examined by

41/CS

1st April 50

XXXXXXXXXX
XXXXXXXXXXXX

The Secretary to the Government of India,
Ministry of Home Affairs, NEW DELHI.

Sir,

REF: Letter No.11/22-A/49-Apptt (SP)/Judl. Govt. of India marked 'Secret & Immediate' from Ministry of Home Affairs.

In acknowledging the receipt of two copies of a memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Parts A & B States, I am directed to request you to be so good as to send one more copy of the memorandum, if there is no objection, for reference.

Yours faithfully,

1/4/50

Chief Secretary to Government.

Appendix F. G.—1]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 19 .

Date of issue 3/4/50

Signed by.....

P. U. D.

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No. 4/18

To

The Secretary to Govt of India
Ministry of Home Affairs.
Govt of India
New Delhi

Ref. Letter No 11/22-A/49-Apptt (Sp)/Judl. Govt of India. Be marked secret & immediate from Ministry of Home Affairs

In acknowledging the receipt of two copies of a memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A & B States, I am directed to request you to be so good as to send one more copy of the memorandum, if there is objection, for reference. ~~of my office~~

Yours faithfully

Dy Secy to Govt of India
31/3/50.

CKS

D.O.No.1973/6-A.
Home Department.
Bombay, 17th April 1950.

Dear Shri Srinivasan,

Please refer to Shri Bhat's demi-official letter No.1/2-Apptt. of the 10th February 1950 about the High Court. In respect of service conditions, including questions of conduct, discipline and control, the High Court Judges are governed by the relevant clauses in the Constitution. This Government has not framed any special rules in the matter. Under the High Court Judges Order of 1937, Provincial Governments were competent to prescribe rules for travelling allowance and other allowances of the High Court Judges. Under the Constitution the President is to announce them; it is understood that they have not yet been announced.

There is no other material with us which can be helpful to your Government.

Yours sincerely,

(V.T.Dehejia).

CHIEF SECRETARY
19 APR 1950
34
GOVT. OF MYSORE

Shri K.Srinivasan, B.Sc.,
Chief Secretary to the Government of Mysore,
Bangalore.

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to .....

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No.

~~To~~ Dear ....

I am desired to acknowledge with thanks your letter of your D.O. letter No. 1973/6-A dated 17th April 50, regarding the procedure ~~being~~ followed by Bombay Govt. in regard to Selection and appointment of Judges of the High Court

Yours Sincerely,

Sri V.T. Dehejia, I.C.S.
Secretary to the Govt of Bombay
Home Department
Bombay

WD 21/4.

WD 06818—GPB—25,000—9-7-49

21.4.50.

K.Srinivasan,B.Sc.,
Chief Secretary to Government
of Mysore.

25th April 50.

1280/S

Dear

I am desired to acknowledge with thanks the receipt of your D.O. letter No.1973/6-A dated 17th April 1950, regarding the procedure followed by Bombay Government in regard to selection and appointment of Judges of the High Court.

Yours sincerely,

Sri.V.T.Dehejia,I.C.S.,
Secretary to the Government of Bombay,
Home Department,
BOMBAY.

H. Srivastava Sec.

SRI HPD 378/CC

_S_E_C_R_E_T_

No.F.19(8)-P/50. Dated New Delhi, the 19 April, 1950

From

The Deputy Secretary to the Government of India,
Ministry of States.

To

K.Srinivasan, Esq.,
Chief Secretary to the Government of Mysore, Bangalore.

Sir,

Sub:- Procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part B States.

Ref:- Government of India, Ministry of Home Affairs letter No.11/22-A/49-Apptt.(Sp)/ Judl, dated March 15, 1950.

In partial modification of the Memorandum enclosed with the letter under reference, I am directed to state that the Government of India have now decided that all recommendations regarding the appointments of judges of High Courts in Part B States will be made to the Hon'ble Minister for States, and not to the Minister for Home Affairs as stated in that Memorandum

Yours faithfully,

Deputy Secretary to the Government of India.

OFFICE OF THE CHIEF MINISTER OF MYSORE
738
22 APR 1950

Prem/

(46)

Sri HPS 404/CB

REGISTERED.
SECRET.

No.F.11/22-A/49-Apptt.(Sp.)Judl.
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS.

From

E.C. Gaynor, Esquire,
Deputy Secretary to the Government of India.

To

The Chief Secretary to the Government of Mysore,
General and Revenue Secretariat,
Bangalore.

New Delhi, the 21st April 1950.

Sir,

With reference to your letter No.41/CB, dated the 1st April 1950, I am directed to forward herewith one more copy of the memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A & B States.

With the Suptd:

Yours faithfully,

(E.C. Gaynor).
Deputy Secretary to the Government of India.

24/4/50
Issd
24/4/50

K.V.

The main file is subd with a draft letter to the Govt of Bombay. Draft put up for approval

25/4

Please put up draft as fair.

Draft and fair are placed below

25/4/50

27/4

Issued No 1389/CB.
28/4/50.

Issue
27.4.50

27.4.50

Appendix F G—1]

SUBJECT.....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *19* .

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

Secret.

No.

~~To~~

~~Dear~~ Sir

I am directed ~~desired~~ to acknowledge with thanks the receipt of your letter No. F 11/22-A/49-Apptt. (SP.) Judl. dated 21st April 49 forwarding one more copy of the memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in part A and B States

Yours faithfully,

Sd/-

Sd/-

Sd/-

S. e. Gaynor, Esquire,

Dy. Secy to Govt of India.

Ministry of Home affairs,

New Delhi

WD 06818—GPB—25,000—9-7-49

WD/2514. 25/4

GOVERNMENT OF HIS ~~HIGHNESS THE MAHARAJA OF~~ MYSORE.

No. 1389/CD

General and Revenue Secretariat,

Dated Bangalore, ~~27th~~ 28th April 19 50

SECRET.

FROM

Chief
The Secretary to the Government of
~~*His Highness the Maharaja of*~~ *Mysore.*

To

E. C. Gaynor, Esquire,
Deputy Secretary
to the Government of India,
Ministry of Home Affairs,
New Delhi.

S i r,

I am directed to acknowledge with thanks the receipt of your letter No.F.11/22-A/49-Apptt.(Sp).Judl. dated 21st April 1950, forwarding one more copy of the Memorandum showing the procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A and B. States.

Yours faithfully,

CHIEF SECRETARY TO GOVERNMENT.

CPG/2.

(Wb)

617
CS.

GOVERNMENT OF INDIA

MINISTRY OF STATES

No. D. 3721-P/50. Dated New Delhi, the 3rd May, 1950.

IMPORTANT
COPY TO P.S. TO HIS HIGHNESS.
Xerox copy of
A. NS 5/5
Chief Secretary to Government

CHIEF SECRETARY
CS.
5 MAY 1950
64
GOVT. OF MYSORE

From

The Deputy Secretary
to the Government of India,
Ministry of States.

To

The Chief Secretary to the
Government of Mysore, BANGALORE.

Sir,

I am directed to refer to your letter No.10598/CS, dated the 11th February 1950, and to say that the procedure for appointment of the Chief Justice and Judges of High Courts has since been laid down in the Memorandum, a copy of which was forwarded to you with Government of India, Ministry of Home Affairs letter No.11/22-A/49-Apptt.(Sp)/Judl., dated the 15th March 1950.

2. As regards paragraph 3 of your letter, I am to say that the Judges of High Courts are not subject to the Government Servants Conduct Rules. It is left to the good sense of a High Court Judge to guide his conduct so that it is not inconsistent with his position.

Yours faithfully,

Deputy Secretary
to the Government of India.

GENERAL & REVENUE SECRETARIAT
9 MAY 1950
CONFIDENTIAL BRANCH.

Secured file
Xerox Hd
Below
5/5/50

Secretariat of the Chief Minister
No. 1257
Date of Receipt 8.5.50

Reco
11/5

Chief Minister)

NS
5/5/50
Xerox
6/5/50.

may be sent
Xerox
10/5/50

Two Drafts put up for appl.
Issue
Xerox
10/5/50.

NS
11/5
Xerox
11/5/50

17.5.50.

Appendix F. G.—1]

SUBJECT..... Draft

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 19 .

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No.

To

The Registrar
The H. C. of Mysore
Bangalore.

Sir,

I am directed to forward herewith an extract of letter No. D 3721-J/50. dt 3 May 50 from the Min. of States Govt of India, for information ~~and retention of the chief justice and the other judges of the High Court.~~

Yours faithfully

for Chief Secy to Govt

10/5/50

P. T. O.

To

The P. S. to H H.

Sir,

I am directed to forward herewith a copy of letter No. D 3724-P/50. dt 3/5/50 from the Min of States, Govt of Pepsu for information.

Yours faithfully

Asstt
13/5/50
for Sec to Govt

HD
13/5/50

Together with a Copy of the Memorandum referred to therein.

As the Copy of the Memorandum is required for reference in the Secretariat. it may kindly be returned when done with

12.5.50.

Secret

ZXZXZXZXZXZXZXZXZXZXZXZXZXZ

2090/C1
Sl. I
Sel-2

13th May /50
15th

ZXZXZXZXZX
ZXZXZXZXZXZX

The Private Secretary to His Highness
the Maharaja of Mysore, MYSORE.

I am directed to forward herewith for information a copy of letter No.D.3721-P/50 dated 3rd May 1950 from the Ministry of States, Government of India, together with a copy of the Memorandum referred to therein.

As the copy of the Memorandum is required for reference in the Secretariat, it may kindly be returned when done with.

Yours faithfully,

15/5/50

For Chief Secretary to Government.

ZXZXZXZXZXZXZXZXZXZXZXZXZXZ

13th May / 50

ZXZXZXZXZX

ZXZXZXZXZXXX

The Registrar,
High Court of Mysore,
BANGALORE.

I am directed to forward herewith for information an extract of letter No.D.3721-P/50 dated the 3rd May 1950 from the Ministry of States, Government of India, New Delhi.

Yours faithfully,

For Chief Secretary to Government.

(46)

682

CONFIDENTIAL

No.11/8/50-Judl.
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

IMPORTANT
COPY TO BE SENT TO HIS HIGHNESS.
Chief Secretary to Government.
9.5.50

From

E.G.Gaynor, Esquire,
Deputy Secretary to the Government of India,

To

All Chief Secretaries of Part A and B States
(except Jammu and Kashmir).

New Delhi, the 6th May 1950.

Subject:- Grant of honorarium to High Court Judges.

Sir,

A case was brought to the notice of the Ministry of Home Affairs recently in which a Judge of a High Court had been asked by Government to undertake certain non-judicial work in addition to his normal duties and for which he was granted an honorarium from State funds. The Government of India have examined the question of principle involved in such payment and have come to the clear conclusion that it is contrary to well recognised rules of propriety in the relations of the Executive and Judiciary. Indeed, the Governor General had occasion, in 1944, to address all Governors on this matter in connection with the case of a Judge who, while on leave towards the end of his service, was employed by a Provincial Government in the drafting of a representation on behalf of the Province in a dispute with another Province. The task entrusted to the Judge was not an unsuitable one for a Judge of a High Court but payment of honorarium to a Judge still on active service was considered to be highly improper. It was considered that, from the point of view of the independence of the Judiciary, it was no less serious for a Judge to be under an obligation to the Executive than for him to be under an obligation to a private person.

2. Under the Constitution there is no statutory bar to a High Court Judge drawing an honorarium for such additional duties, but from the point of view of the independence of the Judiciary, the old arguments apply with undiminished force. The Government of India have reviewed.....

reviewed the position and have decided that the payment of honoraria or other remuneration to Judges of High Courts for performing additional non-judicial functions should be prohibited. Any non-judicial work which a High Court Judge might reasonably be asked to perform should be performed by him with the consent of the President and without any additional remuneration, the period being treated as "actual service" within the meaning of paragraph 11(b) (i) of Part D of the Second Schedule to the Constitution.

3. The instructions in para.2 do not apply to broadcast talks on non-controversial subjects for which a Judge may receive a nominal fee and for which the permission of Government would not be necessary.

Yours faithfully,

(E.C. Gaynor).
Deputy Secretary to the Government of India.

Appendix F. G.—1]

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 19

Date of issue 18.5.50

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Confl.

Section

File No.

Serial No.

No. ಗೃ 3190-91 CS
ಗೃ ಕಾ.ಕ. to ಉ.ನ್ಯಾ.

To

The Registrar,
High Court of Mysore
Bangalore.

Sir,

I am directed to forward herewith for information a copy of letter No. 11/8/50-Jud. dt 6-5-50 from Govt of India, Home Affairs, regarding the grant of Honorarium to High Court Judges.

Yours faithfully

for Chief Secy to Govt
17.5.50

WD 06171—GPB—30,000—4-6-49

CONFIDENTIAL. 3190-91/CB
Jud I

16 May 50.

1. P.S. to H.H., Mysore.
2. The Registrar, High Court of Mysore, B.lore.

Sir,

I am directed to forward herewith for information a copy of letter No.11/8/50-Judl. dated 6th May 1950 from the Government of India, Home Affairs, regarding the grant of Honorarium to High Court Judges.

Yours faithfully,

18/5/50

For Chief Secretary to Government.

1021/CB
Sri HPD

P. H. 24/50. 59.
Encl.

Park House,
Mysore, 22nd May 1950.

From
The Private Secretary
to H.H.the Maharaja, Mysore

To
The Chief Secretary to the Government
of Mysore, Bangalore.

Sir,

Retained by Supdt. 22-5-50

I am desired to return herewith copy of a Memorandum showing the Procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part A and B States, received under cover of your letter No.2090/C.B. dated the 15th May 1950 and to say that it has been submitted to His Highness the Maharaja.

Yours faithfully,

Private Secretary
to H.H.the Maharaja of Mysore.

CHIEF SECRETARY
14
25 MAY 1950
CB
GOVT. OF MYSORE

1009/
So. Upo

No.F.19(13)-P/50. Dated New Delhi, the 23rd May, 1950.

From

The Deputy Secretary to the Government of India,
Ministry of States.

IMPORTANT
COPY TO P.S. TO HIS HIGHNESS.
Chief Secretary to Government.

To

The Chief Secretary to the Government of Rajasthan/
Madhya Bharat/Saurashtra/Pepsu/Travancore
& Cochin/Hyderabad (Deccan)/Mysore.

Sir,

C.S.

CHIEF SECRETARY
26 MAY 1950
GOVT. OF MYSORE

Sub:- Fixation of tenure of High Court Judges of Part B States.

Clause (2) of Article 376 of the Constitution provides in substance that the judges of the High Courts in Part B States, unless they have elected otherwise, shall become from the commencement of the Constitution, judges of the High Court of the State and shall continue to hold office until the expiration of such period as the President may by order determine even though such order may not be in accordance with clauses (1) and (2) of Article 217. It is, therefore, necessary for the President to determine in every case the period after the commencement of the Constitution during which Judges will continue to hold office. The President has already issued orders extending or curtailing in case of certain Judges the normal tenure prescribed in Article 217 of the Constitution. As regards the remaining judges the President has now made an order providing that each of such Judges will continue to hold office until he attains the age of sixty years. A copy of the Order is forwarded herewith for information and such further action as may be necessary.

Yours faithfully,

Deputy Secretary to the
Government of India.

C.S. 26/5/50

26/5/50

O R D E R

No.F.19(12)-P/50.

New Delhi, 18th May, 1950.

In pursuance of the provisions of clause (2) of Article 376 of the Constitution, I hereby determine that every person who by virtue of the said provisions became, on the commencement of the Constitution, a Judge of the High Court in a State specified in Part B of the First Schedule to the Constitution shall, unless otherwise provided by any order previously made by me in that behalf continue to hold office until he attains the age of sixty years.

Sd/- Rajendra Prasad

P R E S I D E N T .

PREM/

Appendix F. G.—1]

SUBJECT.....

.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 19 .

Date of issue 29-5-50

Signed by.....

Pl. prepare 4 copies of the two letters & also two copies each of the letters charged 'x' & '4' as they are required by the Govt.

MM 26/5.

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No. 3700-3702/48

Sl: I/

To

To

1) The Registrar
High Court of Mysore,
Bangalore

~~2) The P. S. to H.H.~~
Mysore.

2) Accountant-~~General~~, Mysore.

Sir,

Subject:- Fixation of the terms of the Judges of Part B. States.

I am directed to forward herewith ~~for information~~ a copy of letter No. F. 19 (3)-P/50 dt 23rd May 50 from the Secretary to Govt of India, Ministry of States, together with a copy of its enclosure viz., Order of the President No. F. 19 (12)-P/50 dt 19/5/50, on the above subject.

Yours faithfully

Dy Secretary to Govt
Asst Secy to Govt 27.5.50

MM 26/5. Copy to Law Br.
Fl. Br.

WD 061/1—GPB—30,000—4-6-49

26.5.50.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. 3700-3702/CD

General and Revenue Secretariat,

Dated Bangalore, 27th May 194 50.

FROM

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

1) The Registrar, High Court of Mysore;
2) The Private Secretary to H.H., Mysore;
3) The Accountant General in Mysore, Bangalore.

SIR,

Subject:- Fixation of the tenure of High Court Judges of Part B. States.

I am directed to forward herewith a copy of letter No.F. 19 (13)-P/50 dated 23rd May 1950 from the Secretary to the Government of India, Ministry of States, together with a copy of its enclosure, viz., Order of the President No.F.19(12)-P/50 dated 18th May 1950, on the above subject.

Yours faithfully,

27.5.50.

CHIEF SECRETARY TO GOVERNMENT.

Copy to Law Branch,
Fl. Branch.

2278/CB
Sh. HPP

Immediate

No.F.19 (7)-P/50. Dated New Delhi-2, the 27th July, 1950.

From

The Joint Secretary
to the Government of India,
Ministry of States.

To

The Chief Secretary to the Government of Mysore, BANGALORE.

Sir,

CHIEF SECRETARY
29 JUL 1950
GOVT. OF MYSORE

Sub :- Salaries and allowances of High Court Judges.

Ref :- Ministry of States Telegram No. 176-P, dated February 2, 1950 and your replies thereto

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Copy to Ch. Sec's file)

I am directed to refer to the correspondence quoted above and to enclose for the information of the Mysore Government a copy of the High Court Judges (Part B States) (Salaries and allowances) Order, 1950, issued in pursuance of Article 221 of the Constitution, as applied to Part B States by Article 238(13) thereof. This Order will be published in the next issue of the Gazette of India in Part II Section 3. I am to request that the contents of the Order may kindly be communicated to all concerned.

2. The question of revision of the existing pay scales of the Chief and Puisne Judges of the High Courts in Part B States is under consideration and a further communication on the subject will follow in due course.

IMPORTANT
COPY TO P.S. TO HIS HIGHNESS,
29.7.50
Chief Secretary to Government

Yours faithfully,

C.P., H.C. & P.G.

Joint Secretary
to the Government of India.

Copy to Govt. for republication

31/7/50.

SR/

No. 83- P
Government of India
Ministry of States
Dated New Delhi-2, the 27th July 1950.

ORDER

The High Court Judges (Part B States) (Salaries and Allowances) Order, 1950.

In exercise of the powers conferred by Article 221 of the Constitution of India, as applied to the States in Part B of the First Schedule by clause (13) of Article 238 thereof, the President, after consultation with the Rajpramukhs, is pleased to make the following Order :-

1. (1) This Order may be called the High Court Judges (Part B States) (Salaries and Allowances) Order, 1950.

(2) It shall be deemed to have come into force on the 26th day of January, 1950.

2. In this Order, -

(a) "actual service" includes -

(i) time spent by a Judge on duty as a judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another;

(b) "continuing judge" means a person who has become a Judge of the High Court in a Part B State by virtue of the provisions of clause (2) of Article 376 of the Constitution;

(c) "Part B State " means a State specified in Part B of the First Schedule to the Constitution, other than the State of Jammu and Kashmir.

3. There shall be paid to every continuing Judge

...2

in respect of time spent on actual service salary at the same rate as was applicable to him immediately before the commencement of the Constitution in respect of time spent on actual service in the High Court for the corresponding Indian State, or at the rate of one thousand rupees per month, whichever is higher.

4. Every continuing Judge shall be entitled to receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India, and shall be afforded such reasonable facilities in connection with the travelling, as may be prescribed by the President after consultation with the Rajpramukh, and until so prescribed, as may have been permissible to that Judge under the rules or orders of the corresponding Indian State in force immediately before the commencement of the Constitution.

5. The rights in respect of leave of absence (including leave allowances) and pension of every continuing Judge shall be governed by the provisions which immediately before the commencement of the Constitution were applicable to him as a Judge of the High Court for the corresponding Indian State.]

Sd/- N. M. Buch

Joint Secretary

SR/

GOVERNMENT OF MYSORE.

General and Revenue Secretariat,

No.7495/GS. *Dated, Bangalore,* 17th August *195* 0

7505-06/GS.

FROM

The Chief Secretary to the Government of Mysore.

To

(1) The Private Secretary to His Highness the Maharaja of Mysore.
(2) The Registrar, High Court of Mysore, Bangalore.
(3) The Accountant-General, Mysore, Bangalore.

Sir,

Subject:- SALARIES AND ALLOWANCES OF HIGH COURT JUDGES.

I am directed to forward herewith for information copy of letter No. F.19 (7)-P/50 dated 27th July 1950, together with its enclosure, received from the Joint Secretary to Government of India, Ministry of States, New Delhi.

Yours faithfully,

Sm. Ramakrishnaiya
for Chief Secretary to Government.

Copy of letter No.F.19(7)-P/50. dated 27th July 1950 from the Joint Secretary to the Government of India, Ministry of States, New Delhi.

*****

Subject: Salaries and allowances of High Court Judges.

Ref: Ministry of States Telegram No.176-P, dated February 2, 1950 and your replies thereto.

....

I am directed to refer to the correspondence quoted above and to enclose for the information of the Mysore Government a copy of the High Court Judges (Part B States) (Salaries and allowances) Order, 1950, issued in pursuance of Article 221 of the Constitution, as applied to Part B States by Article 238 (13) thereof. This Order will be published in the next issue of the Gazette of India in Part II Section 3. I am to request that the contents of the Order may kindly be communicated to all concerned.

2. The question of revision of the existing pay scales of the Chief and Puisne Judges of the High Courts in Part B States is under consideration and a further communication on the subject will follow in due course.

"COPY"

Yours - Ramakrishnaiya
CHIEF SECRETARY TO GOVERNMENT.

IC/10

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No. 7030/C.B. 163-50-2. General and Revenue Secretariat,

Dated Bangalore, 1st August 1950.

NOTIFICATION

The following Order No.83-p. dated 27th July 1950 regarding salaries and allowances of High Court Judges published by the Ministry of States, Government of India, New Delhi, is hereby re-published. ~~For general information.~~

"

O R D E R

The High Court Judges (Part B States) (Salaries and Allowances) Order, 1950.

In exercise of the powers conferred by Article 221 of the Constitution of India, as applied to the States in Part B of the First Schedule by clause (13) of Article 238 thereof, the President after consultation with the Rajpramukhs, is pleased to make the following order:-

1. (1) This Order may be called the High Court Judges (Part B States) (Salaries and Allowances) Order, 1950.

(2) It shall be deemed to have come into force on the 26th day of January, 1950.

2. In this Order, -

(a) "actual service" includes -

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another;

(b) "Continuing judge" means a person who has become a Judge of the High Court in a Part B State by virtue of the provisions of clause (2) of Article 376 of the Constitution;

(c) "Part B State" means a State specified in Part B of the First Schedule to the Constitution, other than the State of Jammu and Kashmir.

3. There shall be paid to every continuing Judge in respect of time spent on actual service salary at the same rate as was applicable to him immediately before the commencement of the Constitution in respect of time spent on actual service in the High Court for the corresponding Indian State, or at the rate of one thousand rupees per month, whichever is higher.

4. Every continuing Judge shall be entitled to receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India, and shall be afforded such reasonable facilities in connection with the travelling, as may be prescribed by the President after consultation with the Rajpramukh, and until so prescribed, as may have been permissible to that Judge under the rules or orders of the corresponding Indian State in force immediately before the commencement of the Constitution.

5. The rights in respect of leave of absence (including leave allowances) and pension of every continuing Judge shall be governed by the provisions which immediately before the commencement of the Constitution were applicable to him as a Judge of the High Court in the corresponding Indian State. ,,

B.O.

Chief Secretary to Government.

To

The Compiler, Mysore Gazette, for publication.

Appendix F G—1] No. 4

SUBJECT..... Two drafts.

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10 & cover

Section

File No.

Serial No.

Diary No. of letter replied to.....

No. 7031-33/CB 163-50-2 - D. 7-8-50

To 1) The Private Sec to H.H.,
2) The Regn, H.E. of Mysore,
3) The Sec. Mysore, Bmc.

General and Revenue Secretariat

( )

the *194* .

Sir,

Subject:— Salaries & allowances of High Court Judges.

Date of issue.....

I am directed to forward herewith & for information a copy of letter no. 7-19 (7)-P/50 dt 27th July 50. together with its enclosure, received from the Joint Sec. to Govt. of India, Ministry of States, New Delhi

Signed by.....

Yours faithfully

sd/-
1/8/50
for Chief Sec to Govt.

List of enclosures.....

Copied by .....

Examined by .....

Copy with its enclosure to
1) P.S. to chief Minr. for submission to chief Minr.
2) P.S. to ch. Sec.
3) Law Br

HMD 31/7/50

P.T.O.

WD 02703—GPB—17,000—28-4-48

~~173~~ To 30/CB 163-50-L D. 18-50

Notification

The following order No-83-P. of 27th July 50, published by the Ministry of State, Govt. of India, New Delhi is here by republished for ~~the~~ general information ~~of the public.~~

Please type the bracketed portion from the P.N.D here with in inverted Comma

By order
J Chief Secy to Govt

To
The Compiler Kerala Gazette
for publication.

31/7/50.

31.7.50.

* regarding Salaries and allowances of High Court Judges.

H.No. 292.
15-10-50.

DRAFT SUBMISSION NOTE.

Under Article 221 of the Constitution read with Article 238 (13) the salary, allowances and rights in respect of leave of absence and pension of every Judge of a High Court in a Part B State shall be determined by the President after consultation with the Rajpramukh. In pursuance of these provisions, the High Court Judges (Part B States) (Salaries and Allowances) Order, 1950 was issued providing that every person who became a Judge of the High Court in a Part B State by virtue of the provisions of Article 376 of the Constitution shall be entitled to the same salary, and rights in respect of leave of absence and pension as were applicable to him immediately before the commencement of the Constitution.

This order does not, however, apply to Sri B. Vasudeva Murthy who has been appointed as High Court Judge after the commencement of the Constitution. An adhoc order of the President will therefore be necessary determining his salary and his rights in respect of leave of absence and pension.

The Government of India, in requesting the advice of His Highness the Rajpramukh as regards the salary of Sri B. Vasudevamurthy, have suggested that for the present the salary and other rights may be the same as provided for the continuing judges under the High Court Judges (Part B States) (Salaries and Allowances) Order, 1950.

The matter was mentioned in Council at the meeting held on 15th October 1950 and the Council was of the opinion that a recommendation ~~may~~ be made ~~[illegible]~~ to the effect that the salary of Sri B. Vasudeva Murthy may be the same as that for the continuing Judges.

I solicit the gracious approval of His Highness to the above ~~[illegible]~~ recommendation ~~[illegible]~~ before it is communicated to the Government of India.

15/10

CHIEF MINISTER.

15/10/50

15.10.50.